

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PHILIP ROY GALANTI,

Plaintiff,

vs.

NEVADA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

Case No.: 2:19-cv-01044-GMN-EJY

ORDER

On October 27, 2022, the Court entered an Order, (ECF No. 44), granting Defendants James Dzurenda, Brian Williams, Jennifer Nash, Anthony Ritz, Kimberly Peterson, Alessia Moore, and Clark County School District's ("Defendants") Motions to Dismiss, (ECF Nos. 22, 24), and dismissing Plaintiff Philip Roy Galanti's ("Plaintiff's") First Amended Complaint, (ECF No. 21). Plaintiff appealed this Order to the United States Court of Appeals for the Ninth Circuit.

On April 25, 2023, the Ninth Circuit issued a Memorandum affirming in part and reversing in part the Court's Order. (*See generally* Memorandum USCA, ECF No. 54). The Ninth Circuit observed that "[i]n light of the issues in this case, the district court should carefully consider appointing counsel for [Plaintiff] in future proceedings." (*Id.* at 14 n.5).

To determine whether exceptional circumstances exist warranting the appointment of counsel, a court must consider: (1) the likelihood of success on the merits; and (2) the ability of the petitioner to articulate their claims *pro se* in light of the complexity of the legal issues involved. *See Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009).

Here, the Court finds that exceptional circumstances exist justifying the appointment of counsel. As to the former, the Ninth Circuit determined that Plaintiff adequately alleged a

1 violation of his Fourteenth Amendment Due Process rights, and thus, Plaintiff has shown a
2 likelihood of success on the merits. (*See generally* Memorandum USCA). As to the latter, the
3 Ninth Circuit observed, and the Court agrees, that appointment of counsel is warranted based
4 on the complex nature of Plaintiff's claim. (*Id.* at 14 n.5).

5 **IT IS THEREFORE ORDERED** that this case be referred to the Pro Bono Program for
6 appointment of counsel for the purposes identified herein, unless Plaintiff notifies the Court
7 that he does not desire appointment of counsel.

8 **IT IS FURTHER ORDERED** that Plaintiff shall have until May 27, 2023, to notify the
9 Court if he does not desire appointment of counsel.

10 **IT IS FURTHER ORDERED** that the Clerk of Court shall forward this Order to the
11 Pro Bono Liaison.

12 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to re-open this case.

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14 **DATED** this 1 day of May, 2023.

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19 Gloria M. Navarro, District Judge
20 UNITED STATES DISTRICT COURT
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